

Message Text

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ORIGIN STR-07

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 EB-08 LAB-04
COME-00 SSO-00 CIAE-00 DODE-00 NSAE-00 NSCE-00
ICAE-00 INRE-00 AGRE-00 CEA-01 FRB-03 H-01 INR-10
INT-05 L-03 PA-01 CTME-00 AID-05 SS-15 ITC-01
TRSE-00 SP-02 SOE-02 OMB-01 DOE-15 /120 R

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APPROVED BY EB/TEX:JJST.JOHN
LABOR - HBLACKMAN
COMMERCE - RSHEPHERD
EA/PRCM - JJBORICH

-----052769 312134Z /75

O P 311948Z AUG 78
FM SECSTATE WASHDC
TO AMCONSUL HONG KONG IMMEDIATE
INFO USMISSION GENEVA PRIORITY
AMEMBASSY BRUSSELS PRIORITY

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GENEVA FOR PHELAN, BRUSSELS FOR USEC

E.O. 11652: N/A

TAGS: EPAP, HK

SUBJECT: TEXTILES: MFA

1. IN RECENT WASHINGTON DISCUSSIONS, LAWRIE MILLS OF
HONG KONG INDICATED THAT PETER TSAO, TSB REPRESENTATIVE
FROM HONG KONG, HAS PREPARED A PAPER FOR CIRCULATION
TO OTHER TEXTILE IMPORTING COUNTRIES THAT WOULD, INTER
ALIA, STATE THAT THE NOTION OF REASONABLE DEPARTURES
CONTAINED IN THE MFA RENEWAL PROTOCOL OF DECEMBER 15,
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1977 HAD APPLICATION ONLY TO THE EUROPEAN COMMUNITY.

2. WE ARE DEEPLY CONCERNED ABOUT THIS. THE USG CAN
IN NO WAY ABIDE WITH ANY INTERPRETATION WHICH SAYS THAT
THE PROTOCOL IN QUESTION APPLIES ONLY TO ONE MFA MEMBER,
WHETHER OR NOT THE USG OR OTHER MFA MEMBERS CHOOSE TO
AVAIL THEMSELVES OF THE PROTOCOL'S PROVISIONS. IT IS

IMPERATIVE THAT HKG BE MADE TO UNDERSTAND THAT, IF THE QUESTION OF APPLICABILITY OF REASONABLE DEPARTURES IS RAISED, THE USG AND VIRTUALLY EVERY OTHER IMPORTING COUNTRY WOULD HAVE TO RECONSIDER THEIR ACCEPTANCE OF THE MFA AS RENEWED. THE MFA'S RENEWAL WAS ACCOMPLISHED THIS YEAR ON THE BASIS OF A VERY DELICATE AND TENUOUS COMPROMISE. TO RAISE THIS QUESTION WOULD PROVOKE

A CRISIS WHICH COULD EASILY LEAD TO ITS COLLAPSE.

3. WE FEAR THAT ONCE TSAO CIRCULATES SUCH A PAPER TO OTHER EXPORTING COUNTRIES, THE DAMAGE WILL BE DONE. EVEN IF HONG KONG DID NOT THEN RAISE THE ISSUE IN THE GATT TEXTILE COMMITTEE, OTHER EXPORTING COUNTRIES WOULD.

4. WE DO NOT KNOW WHY OR HOW TSAO HAS BECOME INVOLVED IN THIS EXERCISE. IT WAS HE WHO CONCEIVED THE NOTION OF "REASONABLE DEPARTURES" IN THE FIRST PLACE, AND HE CLEARLY MEANT IT TO HAVE UNIVERSAL APPLICABILITY WHEN HE ARGUED THAT SUCH DEPARTURES WERE IMPLICIT IN THE MFA

ITSELF. WE DO KNOW THAT AT LEAST ONE COUNTRY (INDIA) WHICH PARTICIPATED IN THE SMALL INFORMAL MFA NEGOTIATING GROUP NEVER ACCEPTED THE PRINCIPLE OF UNIVERSAL APPLICABILITY OF THE "REASONABLE DEPARTURES" PROVISION OF THE PROTOCOL. WE, THEREFORE, SUSPECT THAT LIMITED OFFICIAL USE

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WHEN THE EXPORTING COUNTRY REPS (INDIA AND BRAZIL) IN THE SMALL GROUP WENT TO "SELL" TO EXPORTERS THE LANGUAGE WHICH ULTIMATELY BRIDGED THE GAP BETWEEN APPARENTLY IRRECONCILABLE POSITIONS, THEY MAY VERY WELL HAVE CONVEYED THE IMPRESSION THAT THE "REASONABLE DEPARTURES" PROVISION WOULD BE AVAILABLE ONLY TO THE EC. THUS, IT MAY BE THAT THESE EXPORTERS HAVE PREVAILED UPON TSAO (AS THE INVENTOR OF THE REASONABLE DEPARTURES CONCEPT) TO DO THE ARGUMENTATION LIMITING THE APPLICABILITY OF THIS PROVISION, IN THE CONVICTION THAT IT WOULD CARRY MORE WEIGHT COMING FROM TSAO.

5. WHATEVER THE REASON, IT IS NECESSARY FOR THE HKG TO KEEP TSAO WITHIN CHECK. ACCORDINGLY, THE CONSUL GENERAL IS REQUESTED TO CONVEY THE SUBSTANCE OF THE ABOVE TO HKG AT THE HIGHEST APPROPRIATE LEVEL, PREFERABLY TO DAVID JORDAN OR PHILIP HADDON-CAVE. CONTACT SHOULD ALSO BE MADE WITH MILLS AND, IF POSSIBLE, WITH TSAO HIMSELF, WHO IS IN HONG KONG AT THIS MOMENT.

6. THE CONSUL GENERAL SHOULD ALSO POINT OUT THAT, CONSIDERING TSAO'S PROMINENT ROLE AS HKG REP IN THE

NEGOTIATION OF THE PROTOCOL, ANY PUBLIC DEBATE OVER APPLICABILITY OF "REASONABLE DEPARTURES" IS CERTAIN TO RESULT IN EXPOSURE OF THE RECORDS AND RECOLLECTIONS OF THE COUNTRIES WHICH PARTICIPATED IN THE SMALL NEGOTIATING GROUP AS TO THE POSITION TSAO TOOK AT THE TIME. IN SUCH AN EXPOSURE, IT WOULD BE DIFFICULT TO AVOID EMBARRASSING TSAO DIRECTLY AND THE HKG INDIRECTLY.

7. IT IS IMPORTANT THAT THE HKG UNDERSTAND THAT NOT ONLY DO WE EXPECT TSAO NEITHER TO QUESTION THE APPLICABILITY OF REASONABLE DEPARTURES NOR TO CIRCULATE HIS PAPER PRIVATELY BUT, TO THE CONTRARY, WE EXPECT HONG KONG AND ITS GENEVA TSB REP ACTIVELY TO SUPPORT THE POSITION THAT THE PROTOCOL APPLIES TO ALL MFA LIMITED OFFICIAL USE

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PARTICIPANTS. SUCH ACTIVE SUPPORT WOULD BE FULLY CONSONANT WITH THE SUBSTANCE OF HKG'S POSITION ON THIS ISSUE. MILLS, ON TWO SEPARATE OCCASIONS (JULY IN HONG KONG AND AUGUST IN WASHINGTON), FIRMLY REITERATED TO USTEXDEL HKG'S POSITION THAT THE REASONABLE DEPARTURES CONCEPT APPLIES TO ALL MFA PARTICIPANTS. MOREOVER, MILLS SAID HE WOULD PERSONALLY TRAVEL TO GENEVA TO MAKE SUCH A POSITION PUBLIC, IF NECESSARY.

8. HKG MAY REPLY THAT (IN THEORY) TSB MEMBERS SERVE IN THEIR PERSONAL CAPACITY AND ARE NOT SUBJECT TO INSTRUCTION BY GOVERNMENTS. THE FACT IS THAT TSAO DOES, IN THE EYES OF EVERYONE ELSE, REPRESENT HONG KONG IN THE TSB.

9. TELEGRAPHIC REPORT BY CONGEN AFTER DEMARCHE IS MADE WILL BE APPRECIATED. VANCE

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Secure: OPEN
Status: NATIVE
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TAGS: EPAP, HK, US
To: HONG KONG
Type: TE
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